

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Hisataka SUGIYAMA *et al.*
Appl'n No. : 08/427,866
Filed : 26 April 1995
For : THREE-DIMENSIONAL RECORDING
AND REPRODUCING APPARATUS
Group AU : 2853 (Indicated on Decision on Petition)
Examiner : Unassigned
Conf. No. : 4338 (Indicated on PAIR)

PETITION UNDER 37 CFR §1.181

Mail Stop Petitions
Commissioner for Patents
POB 1450
Alexandria, Virginia 22313-1450

20 April 2004

Sir:

Attached hereto is a copy of the Decision on Petition granted on 22 May 2001 in connection with the above-identified application. The Decision on Petition substantially sets forth the facts behind the erroneous abandonment of the subject application by the Office and the subsequent withdrawal of such abandonment, including the indication on page 3 thereof that this case was being forwarded to Group AU 2853 for examination.

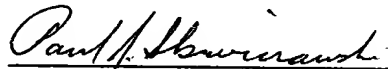
Also attached is a copy of a recent PAIR printout for the above-identified application, which indicates that as of 3 June 2003, two years after mailing of the Decision, this application apparently is still mistakenly held abandoned by the Office and the Office file for this case is in the file repository for abandoned and patented files located in Franconia, Virginia.

Since Applicant already has made every attempt possible to obtain correction of the records and examination of this application, and such examination has even been ordered as indicated in the attached Decision, and yet such examination still has not taken place, **Applicant respectfully submits this §181 Petition seeking remedy of the unwarranted and abnormal delay solely on the part of the Office by IMMEDIATE examination of the subject application.**

Submitted concurrently herewith is an Information Disclosure Statement with Form PTO-1449 and one (1) JP reference for entry and consideration in the subject application.

No fees are required or appropriate for this Petition.

Respectfully submitted,



Paul J. Skwierawski
Registration No. 32,173
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, Virginia 22209-3801, USA
Telephone 703-312-6600
Facsimile 703-312-6666

Attachments:

Copy of Decision on Petition
Copy of PAIR 08/427,866

Concurrent Submissions:

Information Disclosure Statement
Form PTO-1449
JP 01-096828/English Abstract

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Hisataka SUGIYAMA *et al.*
Appl'n No. : 08/427,866
Filed : 26 April 1995
For : THREE-DIMENSIONAL RECORDING
AND REPRODUCING APPARATUS
Group AU : 2853 (Indicated in Decision on Petition)
Examiner : Unassigned
Conf. No. : 4338 (Indicated in PAIR)

SECOND PETITION UNDER 37 CFR §1.181

Mail Stop Petitions

Commissioner for Patents
POB 1450
Alexandria, Virginia 22313-1450

3 November 2004

Sir:

Applicant again respectfully petitions the Commissioner for immediate relief in the unwarranted and abnormal delay on the part of the Office in expediting the prosecution of the above-identified application.

The Decision on Petition granted on 22 May 2001 in connection with this case specifically withdrew the erroneous abandonment of the application by the Office, and indicated on page 3 thereof that this case was being forwarded to Group AU 2853 for examination. However, almost three years after the Decision was mailed, Applicant still had not received a first Action on the merits. Therefore, Applicant respectfully petitioned under 37 CFR §1.181 for immediate examination of the application on 20 April 2004, and such §181 Petition and all attachments thereto are incorporated herein by reference in their entirety. Attached is a printout of

concurrent date for the Transaction History section of PAIR for this application, indicating that the §181 Petition was received and entered into the record.

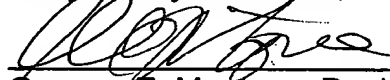
Also attached is a printout of concurrent date for the Application Data section of PAIR for this case, which indicates the status of the application as still erroneously held abandoned, and indicates that the file was never transferred from the file repository in Franconia, even after the first §181 Petition was entered into the record on 20 April 2004.

Since Applicant already has made every attempt possible to obtain correction of the records and examination of this application, such examination even being ordered as indicated in 22 May 2001 Decision, and yet such examination still has not taken place, **Applicant respectfully submits this SECOND §181 Petition seeking IMMEDIATE remedy and relief of the unwarranted and abnormal delay on the part of the Office in examination of the subject application.**

Submitted concurrently herewith is an Information Disclosure Statement with Form PTO-1449 and copies of references for entry and consideration in the subject application.

No fees are required or appropriate for this Petition.

Respectfully submitted,



Gregory E. Montone, Registration No. 28,141
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, Virginia 22209-3801, USA
Telephone 703-312-6600
Facsimile 703-312-6666

Attachments:

PAIR Application Data Printout
PAIR Transaction History Printout

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Hisataka SUGIYAMA *et al.*
Appl'n No. : 08/427,866
Filed : 26 April 1995
For : THREE-DIMENSIONAL RECORDING
AND REPRODUCING APPARATUS
Group AU : 2899 (Indicated in PAIR)
Examiner : Mark J. Reinhart (Indicated in PAIR)
Conf. No. : 4338 (Indicated in PAIR)

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**THIRD PETITION UNDER 37 CFR §1.181 AND
REQUEST FOR FORMAL ACKNOWLEDGMENT UNDER 37 CFR §1.251**

Mail Stop Petitions

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

18 April 2005

Sir:

In the matter of the above-identified application, Applicant has previously filed a first §181 Petition on 20 April 2004 and a second §181 Petition on 3 November 2004 in attempts to obtain any action in the present application, or acknowledgment of any papers filed in connection therewith, by the USPTO. Applicant also has attempted to resolve the improper and unwarranted lack of action or acknowledgment by the USPTO in this case using both telephone inquiries to USPTO personnel, e.g., Davis Willis, Brian Hearn, Mark Reinhart, John Barlow, Stephen Meier, etc., and facsimile resubmission of many of the official/formal papers of record in the application via facsimile directly to Stephen Meier in the Office of Petitions on 16 July 2004. In fact, there has been no action whatsoever taken by the Office in this case in the four (4) years since mailing the Decision on Petition, i.e.,

the USPTO continues to improperly refuse to examine or act upon this application, or to acknowledge or act upon any formal papers filed therein.

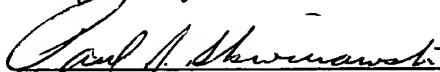
Applicant notes that there now is an entry in the USPTO docket system PAIR dated 21 January 2005 in the Transaction History section thereof, indicating that the status of this application is "File Marked Lost." Again, no Notification under 37 CFR §1.251 or any other Communication has been mailed by the Office to notify Applicant of the loss of the file by the USPTO, or to request Applicant to furnish an accurate and complete copy of correspondence between the Office and Applicant from Applicant's own file.

Applicant already has made every attempt possible to obtain correction of the records and examination of this application, and yet such examination still has not taken place. Accordingly, **Applicant respectfully submits this THIRD §181 Petition seeking IMMEDIATE ACTION in the form of issuance of a Notice Under 37 CFR §1.251 avowing irremediable loss of the Office file by the USPTO and requesting a copy of Applicant's file for the subject application.**

Submitted concurrently herewith is another Information Disclosure Statement with Form PTO-1449 and copies of references for entry and consideration in the subject application.

No fees are required or appropriate for this Petition.

Respectfully submitted,



Paul J. Skwierawski, Registration No. 32,173
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, Virginia 22209-3873, USA
Telephone 703-312-6600
Facsimile 703-312-6666

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: SUGIYAMA, et al.

Serial No.: 08/427,866

Filed: April 26, 1995

For: THREE-DIMENSIONAL RECORDING AND REPRODUCING
APPARATUS

Art Unit: 2108

Examiner: unassigned

PETITION FOR WITHDRAWAL OF ERRONEOUS ABANDONMENT

Assistant Commissioner
for Patents
Washington, D.C. 20231

June 6, 2000

Sir:

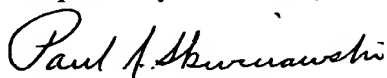
On May, 18, 2000, Applicant respectfully filed a Status Inquiry as it had been five years since the filing of the application on April 26, 1995, and no communication has been received as of yet regarding the application. Further, shortly thereafter, the undersigned began making telephone calls in an attempt to determine the status. On May 31, 2000, the undersigned received a voice mail from an SPE Nancy Le indicating that USPTO records indicated that the above-identified application had been expressly abandoned in view of a file wrapper continuation (FWC), i.e., related application 08/464,461 which subsequently issued as U.S. Patent 5,614,938. Also on May 31, 2000, the undersigned received a return call from USPTO customer service representative Davis Willis who reiterated the same USPTO position as Miss Le. The below-indicated law firm's file and records for the

present application do not reflect receipt of any written papers from the USPTO indicating abandonment of the present application.

After the above, the below-indicated law firm's file and records for the related application 08/464,461 were accessed, and it was found that 08/464,461 was filed as a Rule 60 continuation application, and not as a Rule 62 FWC application. More particularly, attached hereto is a copy of a cover letter and USPTO date-stamped postcard both indicating that related application 08/464,461 was filed as a Rule 60 continuation application. Accordingly, it is respectfully submitted that the USPTO's apparent "express abandonment of the present application in view of a filing of 08/464,461 as a FWC of 08/427,866" is in error, and written withdrawal of such abandonment is respectfully requested.

Relatedly, with regard to the issued U.S. Patent 5,614,938 which issued from related application 08/464,461, it has been respectfully noted that a "Related U.S. Application Data" portion of such issued patent erroneously indicated that such patent is a "Continuation of Ser. No. 427,866, Apr. 26, 1995, abandoned...", and accordingly, a Certificate of Correction is being filed under separate cover letter to correct the same.

Respectfully submitted,



Paul J. Skwierawski

Registration No. 32,173

ANTONELLI, TERRY, STOUT & KRAUS, LLP

PJS/

(703) 312-6600

attachments:

copy of June 5, 1995, cover letter filing related application 08/464,461

copy of June 5, 1995, USPTO date-stamped post card re filing of 08/464,461



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. ____

ANTONELLI TERRY STOUT & KRAUS
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VIRGINIA 22209

500.31617CX1

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MAY 22 2001

In re Application of
Hisataka Sugiyama et al
Application No. 08/427,866
Filed: April 26, 1995
Attorney Docket No. 500.31617CX1

OFFICE OF PETITIONS
A/C PATENTS

AND

DECISION ON PETITION

In re Application of
Hisataka Sugiyama et al
Application No. 08/464,461
Filed: June 5, 1995
Attorney Docket No. 500.31617CX2
Now Patent No. 5,614,938
Issue Date: March 25, 1997

The above-identified files are before this office to consider the petition filed June 6, 2000, in Application No. 08/427,866 requesting withdrawal of the erroneous holding of abandonment.

The petition is granted.

A review of the file history of Application No. 08/427,866 indicates that this application was filed on April 26, 1995, as a 37 CFR 1.60 continuation application of Application No. 07/958,162 (now Patent No. 5,414,451, which issued on May 9, 1995), containing claims 1 through 12.

On June 5, 1995, a request for filing a continuation application under 37 CFR 1.60, along with a copy of the specification, claims and drawings, of Application No. 08/427,866, was filed. The continuation papers filed on June 5, 1995 were assigned Application No. 08/464,461 and apparently were processed as a filewrapper continuation application under 37 CFR 1.62 of Application No. 08/427,866. Thereafter, a nonfinal Office action was mailed on March 12, 1996 and, on June 12, 1996, an amendment was filed canceling claims 1 through 12 and adding claims 13 through 17 (which were later renumbered as claims 1 through 5 (which are the same claims as now appears in the issued patent). A Notice of Allowance and a Notice of Allowability were mailed on September 17, 1996. In reply, the issue fee was paid on December 13, 1996, and Application No. 08/464,461 subsequently issued as Patent No. 5,614,938 on March 25, 1997.

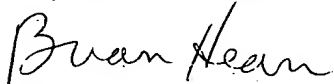
Unfortunately, the Group, now Technology Center, apparently processed the 37 CFR 1.60 application papers filed on June 5, 1995 as an application filed pursuant to the provisions of 37 CFR 1.62; hence the PALM records at the USPTO indicating that the '866 application is abandoned. As noted above, however, the transmittal letter for the application papers filed on June 7, 1995, were clearly marked as having been filed under the provisions of former 37 CFR 1.60, as a continuation (and copy) of application No. 08/427,866 which did not require the abandonment of the parent application as a condition of obtaining a filing date. Any indication of abandonment of the '866 application is manifestly in error, is hereby **vacated**, and as indicated, *infra*, will be corrected by the Technology Center.

It is noted that while application No. 08/464,461 was filed June 5, 1995, the specification therein and one transmittal letter therein are date stamped April 26, 1995. It is also noted that the specification in application No. 08/427,866, filed April 26, 1995, is date stamped filed June 6, 1995, and the transmittal letter filed June 6, 1995, is also placed in that file. It appears that the Group, now Technology Center, inadvertently switched the earlier filed papers for application No. 08/427,866 into the later filed application No. 08/464,461, and *vice versa*. Nevertheless, such is immaterial, as each specification is, ultimately, pursuant to 37 CFR 1.60, a copy of the parent application No. 07/958,162 filed October 8, 1992. Accordingly, to minimize confusion and disruption of the contents of a patented file, the specifications and transmittal letters, notwithstanding the dates stamped thereon and the filing dates accorded to each respective application, will each remain in the file wrapper in which they currently reside.

Application No. 08/464,461 (now U.S. 5,614,938) is being forwarded to the Files Repository.

Application No. 08/427,866 is being forwarded to Technology Center AU 2853 for correction of PALM records to show that this application is pending; is not the parent of a file wrapper continuation application; and examination on the merits.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

A handwritten signature in cursive script that reads "Brian Hearn".

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy